

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Renue Physical Therapy Freeland
Petitioner

File No. 21-1750

v

MemberSelect Insurance Company
Respondent

Issued and entered
this 7th day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 18, 2021, Renue Physical Therapy Freeland (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of MemberSelect Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on August 23 and 30, 2021 and September 7, 20, and 22, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 14, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 15, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 4, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 25, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on August 6, 18, 20, 25, and 27, 2021, and September 3 and 8, 2021 under procedure codes 97140, 97530, and 97100. The procedure codes are described as manual therapy, therapeutic activities, and therapeutic procedures, respectively. In its *Explanation of Benefits*, the Respondent referenced the American College of Occupational and Environmental Medicine (ACOEM) for knee, cervical, and thoracic spine conditions as a basis for its denial.

With its appeal request, the Petitioner submitted supporting documentation which stated that the injured person was involved in a motor vehicle accident in January 2020 and sustained injuries to the neck and right knee. The Petitioner's submitted medical records indicate that the injured person complained of knee swelling and limited range of motion following his reconstructive knee surgery. The Petitioner noted that the injured person reported pain in the right knee with walking and bending. The Petitioner's request for an appeal also stated that, "[the injured person's provider] believes that [the injured person] will significantly benefit from continued physical therapy...to improve pain and range of motion."

In its reply, the Respondent reaffirmed its position and referenced ACOEM guidelines for Repair (Reconstruction), Anterior Cruciate Ligament Rehabilitation. The Respondent argued that the medical documentation did not support the treatment rendered for the dates of service at issue. Specifically, the Respondent stated:

The medical records do not support this request. It appears, per history, that over 29 physical therapy treatment sessions have been provided since 4/6/2020, for diagnoses AS83.511D (Sprain of anterior cruciate ligament of right knee, subsequent encounter), and M54.2 (Cervicalgia), for the 1/31/2020 motor vehicle injury. Per the documentation, Right ACL reconstruction surgery was on 3/25/2021, and per therapist notes, "ambulating without assistance." Per [the Petitioner], subjective documentation "increase in discomfort," and, "did feel relief of neck pain with last session", were also noted. The Physical therapy treatment exceeds the ACOEM guideline quantity recommendations of 18 visits over 12 weeks. Opportunity has been given to establish and reinforce a rehabilitation exercise program for home.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a medical doctor with an active practice who is board-certified in physical medicine and rehabilitation with additional certification in electrodiagnostic medicine and acupuncture. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, boards, and associations. The IRO reviewer relied on Official Disability Guidelines and medical literature for its recommendation. The IRO reviewer noted:

The [injured person] has cervicgia and right knee [anterior cruciate ligament (ACL)] sprain. The [injured person] was previously treated with 29 physical therapy visits since 4/6/21. The Official Disability Guidelines recommend 9 manual therapy and therapeutic treatments or 9 physical therapy treatments over 8 weeks for cervicgia and 12 manual therapy and therapeutic treatments or 12 physical therapy treatments over 8 weeks for ACL sprain. These treatments could be given in combination and therefore the Official Disability Guidelines would recommend 12 manual therapy and therapeutic treatments or 12 physical therapy treatments over 8 weeks for this [injured person.] The [injured person] was previously treated with 29 physical therapy visits since 4/6/21, and therefore the Official Disability Guidelines would consider the seven [treatments] at issue on [the dates of service at issue] overutilized and not medically necessary.

The IRO reviewer recommended that the Director uphold the Respondent’s determination that the physical therapy treatments provided to the injured person on August 6, 18, 20, 25, and 27, 2021, and September 3 and 8, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent’s determinations dated August 23 and 30, 2021 and September 7, 20, and 22, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person’s eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review

should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford